

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

ARBITRATION - SUITS - Final settlement of Arbitration award in respect of the work for excavation of Srisailem Right Branch Canal from Km.7.00 to Km.8.00 in all soils and Nandyal shales awarded to M/s. Nirmala contractors, represented by Sri B.V.Ramana Reddy vide Agreement No.19 SE/85-86, SRBC Circle No.1, Nandyal dated 25-10-1985 - Sanction of an amount of Rs.18,00,000/- - Orders - Issued.

IRRIGATION AND COMMAND AREA DEVELOPMENT(ARB)DEPARTMENT

G.O.Ms.No.

Dated the 25th March, 2009.

Read the following:-

1. From Sri B.V. Ramana Reddy, Managing partner, M/s.Nirmala contractors, Nellore Dist., representation dated 22.4.2008.
2. G.O.Rt.No.103, I & CAD (ARB) Dept., dated 24-01-2008.
3. Govt.Memo.No.12419/ARB/08, dated 17-05-2008.
4. From the ENC (Med.Irrgn.), Hyderabad, Lr.No.ENC/Med/DCEIII/OT1/ARB-4/2008, dated 26-08-2008 and dated 24-10-2008.

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ORDER:

M/s. Nirmala Contractors represented by its Managing Partner Sri B.V. Ramana Reddy in his letter first read above, has stated that the work for excavation of Srisailem Right Branch canal from Km.7.00 to Km.8.00 in all soils and Nandyal shales was awarded to them vide Agt. No.19/SE, Dt.25.10.85. Due to certain reasons, the work was terminated by the Dept. on 30-10-1990 under clause 60(a) of P.S. to A.P.S.S. forfeiting the deposit and other amounts payable to them. During the execution of the work they raised certain claims with the Dept. As the Dept. did not settle the claims, they filed OP.No.104 of 1992 on the file of the Sub-court, Nandyal, to refer the claims to the Sole Arbitrator and thereupon the matter was referred to the Sole Arbitrator. After holding enquiry the Sole Arbitrator passed an Award on 01-03-1993 allowing some of the claims and rejected the rest. After passing the award they file O.S.No.19 of 1995 on the file of the Sub-Judge, Nandyal under section 14 and 17 of the Arbitration Act, for

passing decree in terms of the Award. The Dept. has also filed O.P.No.27 of 1995 u/s. 30 of the Arbitration Act, 1946 for setting aside the Award. Subsequently both the cases were transferred to the Senior Civil Judge, Nandikotkur, as per the orders of Dist. Judge, Kurnool and renumbered as O.S.No.3/1998 and OP.No.3/98 respectively. Finally the trial court directed the Department to pay future interest on Prl. Amount of Rs.47,75,200/- /- @ 18% p.a. on the principal amount of Rs.21,63,497/- from the date of award till the date of payment. The petition filed by Government vide OP.No.3/98 has dismissed. The Contractor has also filed petition in High Court CMA.M.P.No.2259 of 2007 in C.M.A. No.2041 of 1999. The Hon'ble High Court in its order dated 20-12-2007 has permitted the petitioner to approach the Government and it is for the Government to consider the case of the petitioner and pass appropriate orders in accordance with relevant rules and regulations. He has therefore, requested to settle his case amicably after giving due notice and opportunity to them in accordance with Law.

2. In the G.O. second read above, based on the directions of the Hon'ble High Court and as per the suggestion of the Learned Advocate General, High Court of Andhra Pradesh, Hyderabad, orders have been issued constituting three Regional Committees in the State for conducting conciliation with the Contractors. Accordingly, in the Govt. Memo third read above, the case has been referred to the Committee for Rayalaseema Region for conducting negotiations with the contractor for an amicable settlement

3. The Engineer-in-Chief, Medium Irrigation and Chairman / Convener for Rayalaseema Region in the letter fourth read above, has submitted the report of the Committee. He has also stated that after negotiations with the Contractor, the Committee in its report has finally stated that after deducting the amount already sanctioned the balance amount may be paid to the Contractor including the cost of the suits.

4. The Principal Secretary to Government, I & CAD Department has conducted final conciliation on 20-11-2008 with the contractor and the contractor has agreed for a sum of Rs.18,00,000/- as full and final settlement towards the above works. The Contractor has furnished an affidavit in this regard declaring his willingness to withdraw all legal proceedings in High Court of Andhra Pradesh in any other Courts in respect of the above works.

5. After careful examination of the matter, Government hereby sanction the balance amount of Rs.18,00,000/- (Rupees eighteen lakhs only) towards full and final settlement payable to the contractor in respect of the work for excavation of Srisailem Right Branch canal from Km.7.00 to Km.8.00 in all soils and Nandyal shales was awarded to them vide Agt. No.19/SE, Dt.25.10.85.

6. The above sanctioned amount shall be debited to the following Head of Account:

“MH 2701 - Capital outlay on Major and Medium Irrigation - 01 Major Irrigation (Commercial) scheme included in the plan - MH 123 SRBC Scheme included in the plan GH 11 NSP - SH 27 Canals & distributaries - 530 Major works - 531 Other expenditure”.

7. The Chief Engineer(Projects), Irrigation, Kurnool, is directed to arrange to pay the amount sanctioned at para (5) above, to M/s. Nirmala Contractors represented by its Managing Partner Sri B.V. Ramana Reddy, duly deducting the amounts that are recoverable on whatsoever account.

8. This order issues with the concurrence of Finance (W&P) Department vide their U.O.No.5358/F4(1)/08-1, dated 09-01-2009.

To

The Chief Engineer (Projects), Irrigation, Kurnool.

The Pay & Accounts Officer, Hyderabad.

The Dy.Pay&Accounts Officer, Secretariat Buildings, Hyderabad.

Sri Bandi Venkata Ramana Reddy, S/o.Late Sangi Reddy, Managing Partner, Nirmala Constructions, Lakshmi puram, Nellore.

Copy to:

The Engineer-in-Chief, Medium Irrigation, I&CAD, Hyderabad

The I&CAD (P&B) Deptt.,

The Accountant General, Andhra Pradesh, Hyderabad.

The Finance(W&P) Department. (with a request to release LOC for the sanctioned amount).

The Advocate-General, High Court of Anhdra Pradesh, Hyderabad.

The Govt.Pleader for Arbitration, High Court of A.P., Hyderabad.

SF/SC.